

Ogilvie 1071,

Anno Rēgni
WILLIELMI
ET
MARIÆ,

Regis & Reginae, Angliæ, Franciæ & Hiberniæ, Primo.

On the third day of April, Anno Dom. 1689. In the first Year of their Majesties Reign, this Act passed the Royal Assent.

An Act for Reviving of Actions and Process, lately Depending in the Courts at Westminster, and Discontinued by the not holding of Hilary Term, and for supplying other Defects relating to Proceedings at Law.

W Hereas the Term of St. Hillary, in the year of Our Lord One thousand six hundred eighty eight, could not be holden and kept, for which, if due provision be not made, great delay of Justice, and consequently great Expences to the Suitors in the several Courts, usually held at Westminster, will ensue:

Therefore for the Continuing and Reviving all manner of Actions or Pleas lately Depending, and all manner of Process that were Returnable or Depending in any of the saids Courts, and which were Discontinued and put without Day by the not holding the said Term,

Be it Enacted by our Sovereign Lord and Lady the King and Queen, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That all Pleas, Writs, Bills, Actions, Suits, Complaints, Process, Precepts, or other things whatsoever, that were Returnable, or had day or days in the Courts of Chancery, Kings Bench, Common Pleas or Exchequer, In Octabis Hillarii, Quindena Hillarii, Crastino Purificationis Beate Mariæ, or Octabis

Purificationis Beatae Mariae last past, or at any day or days certain, after any of the said Returns, shall Stand, Continue, and be Revived to all intents and purposes, and are hereby Continued and Adjourned unto, and shall and may be Pleaded, Heard and proceeded upon, at, and on the Return in *Quindena Pasche* next ensuing; And that all parties that had day by any Pleas, Writs, Bills, Actions, Suits, Complaints, Process, Precepts, or other thing or things whatsoever, at or in any of the said Returns in the said Term of *St. Hillary*, or at any day or days certain, after any of the said Returns in the said Courts, or any of them, shall appear in the said Courts respectively, at and on the said Return in *Quindena Pasche*, under the Penalty of forfeiting any Obligations or Recognizances conditioned for the appearance of the said parties, at any time of the said Returns, or days in the said Term of *St. Hillary*, or under any other penalty that might have incurred upon the said parties, their Pledges and Sureties for not appearing at any of the said returns or days, if the said Term had been holden or kept.

And be it further Enacted by the Authority aforesaid, That all Writs of Error brought upon any Judgments, given in the Kings Bench Returnable, or upon which any day was given before the Justices of the Common Bench and Barons of the Exchequer, in the Exchequer Chamber, to any time in the said Term of *St. Hillary*, and all pleadings and proceedings thereupon, shall and are hereby Revived, Recontinued and Adjourned unto the twentieth day of *April* in the year of our Lord One thousand six hundred eighty nine, before the Justices of the Common Bench and Barons of the Exchequer, in the Exchequer Chamber, to be then and there heard and proceeded upon in such manner as if the said Writs, Pleadings and Proceedings had been continued to the said twentieth day of *April*, and all parties are to appear at the said day, under the same penalty that would have been incurred by them, their Pledges and Sureties, if they had made Default at the day in the said Term of *St. Hillary*, in which the said Writs were returnable, or day thereupon was given.

And be it further Enacted by the Authority aforesaid, That all Writs of Error brought upon any Judgments given in the Court of Exchequer at *Westminster* returnable, or upon which any day was given before the Lord Chancellor and Lord Treasurer, in the Exchequer Chamber

ber at any time in the said Term of *St. Hillary*, and all pleadings and proceedings thereupon, shall be, and are hereby Revived, Recontinued, and Adjourned unto *Tuesday* the twenty third day of *April* in the year of our Lord One thousand six hundred eighty nine, in the *Exchequer Chamber*, to be then and there heard and proceeded upon, as if the same had been continued to the said twenty third day of *April*; and all parties are to appear at the said day under the same penalty that would have been occurred by them, their Pledges and Sureties, if they had made default at the day in the said Term of *St. Hillary*, in which the said Writs were returnable, or day thereupon was given.

And forasmuch as no Proclamation upon any Fine Levied in the said Court of Common-pleas, by reason of the not holding the said Term of *St. Hillary*, could be then made; for Remedy whereof,

Be it Enacted by the Authority foresaid, That every Fine upon which any Proclamation ought to have been made, if the said Term had been held, shall be as good and effectual, as if such proclamation had been made; And if the fourth and last Proclamation was to have been made in the said Term of *St. Hillary*, the five years in which any person and persons were to make his or their Entry in, or claim to any Lands and Tenements Comprized in such Fine, shall begin and be accounted from the Twelfth day of *February*, in the year of our Lord One thousand six hundred eighty eight.

And be it Enacted, That where any Judgment or Judgments was or were by Virtue of any Warrant of Attorney to have been Confessed, or Entred in any of the said Courts of *Westminster*, against any person or persons in the said *Hillary* Term, the same shall, and may be Entred in the said *Easter* Term, so as the Parties be then living.

And for the preventing of any further delay in prosecuting of Suits; Be it Enacted by the Authority aforesaid, That it shal and may be Lawful for any person or persons whatsoever, before the Seventeenth day of *April* in the year of Our Lord, One thousand six hundred eighty nine, to Bring, Sue or Prosecute any Precept, Writ, mean Process or Execution, or any other Process whatsoever, Returnable in the said respective Courts in some Return, or Day in *Easter* Term next ensuing the said Writs Returnable in the Courts of *Kings Bench*, *Common Pleas* and *Exchequer*, shal be da-

ted on the day, the same are actually Sued out, which Writs and Process so Sued, Prosecuted and Executed, shal be good and available in Law, to all Intents and Purposes whatsoever, notwithstanding the want of any Original Writ, or being Attested.

And also it shall and may be lawful before the said Seventeenth day of *April*, to Prosecute any Writ or Writs of *Habeas Corpus* in Civil Causes, so to be dated as aforesaid, Returnable immediately before any of the Justices of the Kings Bench, Common Pleas, and Barons of the Exchequer respectively, who may take such Course, and Proceed thereupon in granting procedendo's to be dated as aforesaid, or otherwise in such manner as if the said Term of *St. Hillary* had been holden and kept.

And be it further Enacted, That all Pleas, Writs, Bills, Actions, Suits, Plaints, Process, Precepts, Proceedings, Indictments and Informations, Causes, Matters or Things whatsoever, Pleaded, Returned, Depending or being in the Court of the Dutchy Chamber at *Westminster*, in the Courts of the Great Sessions in the Dominion of *Wales*, or in the Courts within the Counties Palatine of *Chaster*, *Lancaster* or *Durham*, or in any other Court or Courts of Law or Equity within this Kingdom, upon the eleventh day of *December* in the Year of our Lord God One thousand six hundred eighty eight, shall stand Continued, and be Revived to all Constructions and Purposes, and are hereby Revived and Continued, and shall and may be Pleaded, Tryed, Adjudged, Heard and Proceeded upon, without any Continuance or Adjournment whatsoever.

And forasmuch as since the Eleventh day of *December* in the year of our Lord One thousand six hundred eighty eight, and before the Thirteenth day of *February* following, divers Crimes and Offences have been Committed and Done, and divers Causes of Actions have arisen and accrued;

Be it Enacted by the Authority aforesaid, That all persons that have within the time mentioned committed any Murder, Manslaughter, Burglary, Perjury or Forgery, and likewise any other person or persons who have within that time Committed or Done any other Crimes and Offences, for which he or they were in Custody, or stood upon Bail on the said Thirteenth day of *February*, shall and may be proceeded against, and punished in such manner as he

he or they might have been by Law, if the said Crimes and Offences had been Committed or Done before the said Eleventh day of December, and all persons whatsoever for any Cause or Matter arisen or accrued since the said Eleventh day of December, and before the said Thirteenth day of February, shall be lyable to any Action to be brought or prosecuted against him or them for the same, and it shall and may be sufficient in all Indictments and Informations for any such Crimes and Offences to be preferred and exhibited; And in all Actions and Declarations for any such Cause or Matter to be brought to alledge the Year of our Lord God, in stead of the Year of the King's Reign: And in any such Indictments, Informations or Actions wherein Conclusions used to be *Contrapacem Domini Regis*, to conclude *Contrapacem Regni*: And all Indictments for any Felonies committed within that time shall be good and effectual, having the words, *Contra pacem Regni*, though the words *Domini Regis Coronam & Dignitatem suas* be omitted.

And be it further Enacted by the Authority aforesaid, That all Recognizances, Statutes, or Obligations whatsoever made since the said Eleventh day of December, and before the said Thirteenth day of February following, in the Name of, and to the late King *James* the Second, shall be Good and Effectual in the Law, to all Intents and Purposes whatsoever; and shall be Sued by, and in the Name of Our Sovereign Lord and Lady the King and Queen, and their Successors: And all person and persons whatsoever, which within that time were bound by any Recognizance or Recognizances to the said late King *James*, with Condition for his, and their Appearance in the said Court of Kings Bench, at any time in the Term of *Saint Hillary* then next following, or at the next Assises, sessions of Oyer and Terminer, General Goal Delivery, or of the peace to be held for any City, County or Place, shall be obliged to Appear in the said Court of Kings Bench, at and on the First day of *Easter* Term, in the Year of Our Lord One thousand six hundred eighty nine, and at the next Assises, Sessions of Oyer and Terminer, General Goal-Delivery, and of the Peace to be held for the said City, County, or Place respectively under the Penalty of Forfeiting the said Recognizance or Recognizances by him, them and their Sureties. And

And be it further Enacted by the Authority aforesaid, That all Writs and Process whatsoever, issuing out of any of the said Courts of *Westminster*, as of *Michaelmas* Term in the Year of our Lord One thousand six hundred eighty eight, that have been executed before the same were Returnable ; And all Bills, Plaints, Judgments and Proceedings in the Courts of Cities or Towns Corporate, or any other inferiour Court, and all Executions thereupon had since the said Eleventh day of *December*, and before the said Thirteenth day of *February*, shall be good and effectual in the Law, as if the said late King had remained in the Exercise of his Regal Power.

And be it further Enacted, That all Bayl Bonds taken by Persons who were in the Places of, or acted as Sheriffs, though they were not lawfully Qualified or Authorized so to do since the first day of *November* One thousand six hundred eighty seven : And that all Recognizances of Bayl taken or acknowledged since the said Eleventh day of *December*, before any Person who upon the First day of the said Month of *December* was Justice of the Kings Bench, Common Pleas, or Baron of the Exchequer, shall be good and effectual to all Intents and Purposes, and shall and may be Inrolled in the said respective Courts in the said Term of *Easter* One thousand six hundred eighty nine ; And that all Commitments to Prison on any Writ or Process of any Person or Persons by the said Judges, any or either of them, since the said Eleventh day of *December*, shall be as available in Law to all Intents and Purposes, as if the same had been done by or before lawful Sheriffs or Judges.

And forasmuch as since the Tenth day of *December* One thousand six hundred eighty eight, the Chancery was not open, nor yet is, whereby the Subject was hindered from prosecuting any Original Writ :

Be it therefore Enacted by the Authority aforesaid, That no part of the time from the said Tenth day of *December* until the Twelfth day of *March* One thousand six hundred eighty eight, shall be esteemed or accounted as any part of the six Months from the time of the avoidance of any Church in which any Patron upon any disturbance is bound to bring his Darrein Presentment, or *Quare Impedit*; or as any part of the time within which any person or persons by virtue of any Statute for Limitation of Actions ought to bring his or their Action or Actions; But that all and every person and persons shall have allowance of so much time from the Twelfth day of *March*, as did or shall incur between the said Tenth day of *December*, and the said Twelfth day of *March*.

Anno Primo

WILLIELMI & MARIAE.

An Act for punishing Officers or Souldiers, who shall Mutiny or Desert Their Majesties Service.

W Hereas the raising or keeping a Standing Army within this Kingdom in time of Peace, unless it be with consent of Parliament, is against Law. And whereas it is judged necessary by their Majesties and this present Parliament, That during this time of Danger several of the Forces which are now on foot should be continued, and others raised for the Safety of the Kingdom, for the Common Defence of the Protestant Religion, and for the reducing of Ireland.

And whereas no Man may be forejudged of Life or Limb, or subjected to any kind of punishment by Martial Law, or any in other manner then by the Judgment of his Peers, and according to the known and Established Laws of this Realm; Yet nevertheless it being requisite for retaining such Forces as are or shall be raised, during this Exigence of affairs, in their Duty, an exact Discipline be observed; And that Souldiers who shall Mutiny or stir up Sedition, or shall desert Their Majesties Service, be brought to a more Exemplary and speedy Punishment then the usual Forms of Law will allow :

Be it therefore Enacted by the King and Queen's most Excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by Authority of the same, That from and after the Twelfth day of April in the Year of our Lord One thousand six hundred eighty nine, every Person being in Their Majesties Service in the Army, and being Mustered and in Pay as an Officer or Soldier, who shall at any time before the Tenth day of November in the Year of our Lord One thousand six hundred eighty nine, Excite, cause or joyn in any Mutiny or Sedition in the Army, or shall Desert Their Majesties Service in the Army, shall suffer Death, or such other Punishment as by a Court-Martial shall be Inflicted.

And it is hereby further Enacted and Declared, That Their Majesties, or the General of Their Army for the time being, may by virtue of this Act, have full Power and Authority to grant Commissions to any Lieutenants General, or other Officers not under the Degree of Colonels, from time to time to Call and Assemble Court-Martials for Punishing such Offences as aforesaid.

And

And it is hereby further Enacted and Declared, That no Court-Martial which shall have power to inflict any punishment by virtue of this Act for the offences aforesaid, shall consist of fewer then thirteen, whereof none to be under the degree of Captains;

Provided always, That no Field Officer be Tried by other than Field Officers; And that such Court-Martial shall have Power and Authority to administer an Oath to any Witness in order to the Examination, or Tryal of the offences aforesaid.

Provided always, that nothing in this Act contained, shall extend, or to be construed to exempt any Office or Soldier whatsoever, from the Ordinary process of Law;

Provided always, That this Act, or any thing therein contained, shall not extend, or be any ways Construed to extend to, or concern any the Militia Forces of this Kingdom;

Provided also, that this Act shall Continue, and be in Force until the said Tenth day of November, in the said Year of our Lord one thousand six hundred eighty nine, and no longer.

Provided always, and be it Enacted, That in all Trials of Offenders by Courts Martial, to be held by virtue of this Act, where the Offence may be punished by death, every Officer present at such Tryal, before any Proceeding be had thereupon, shall take an Oath upon the Evangelists before the Court (and the Judge Advocat or his Deputy shall, and are hereby respectively Authorized to Administer the same) in these words; That is to say,

You shall well and truly Try and Determine according to your Evidence, the Matter now before you, between Our Sovereign Lord and Lady, the King and Queen's Majesties, and the Prisoner to be Tried.

So help you God.

And no Sentence of Death shall be given against any Offender in such Case, by by any Court-Martial, unless nine of Thirteen Officers present shall concur therein; And if there be a greater number of Officers present, then the Judgment shall pass by the concurrence of the greater part of them so Sworn, and not otherwise; and no Proceedings, Tryal or Sentence of Death shall be had or given against any Offender, but between the hours of Eight in the Morning, and One in the Afternoon.

F I N I S.

Edinburgh, Re-Printed in the Year, 1689.